

REMARKS

Claims 1-4 have been examined, and have been rejected under 35 U.S.C. § 103(a), as well as the doctrine of nonstatutory double patenting.

I. Preliminary Matters

As noted in the April 18, 2005 Amendment, the Examiner did not initial the Non-Patent Literature document listed on the PTO 1449 form that was returned with the January 18, 2005 Office Action. Accordingly, Applicant is again providing a copy of the partially initialed PTO 1449 form for the Examiner to initial the remaining document. Such paper is already scanned in and viewable in the USPTO system. Therefore, the Examiner may also print out a copy of the partially initialed form if the enclosed copy is misplaced. If, however, the Examiner believes that there is a deficiency regarding the non-patent literature document, Applicant respectfully requests the Examiner to indicate such deficiency so that the Applicant may properly respond.

Further, the Examiner has not acknowledged the drawings filed on September 9, 2003. Accordingly, Applicant respectfully requests the Examiner to indicate, in the next Office Action, whether the drawings are acceptable.

II. Rejections under 35 U.S.C. § 103(a) in view of U.S. Patent No. 5,139,043 to Hyde et al. (“Hyde”)

The Examiner has rejected claims 1-4 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Hyde.

The Examiner has not provided the patent number for the Hyde reference. Accordingly, Applicant assumes that the Hyde reference discussed in the current rejections is the same reference as listed on the PTO 1449 form of the September 9, 2003 Information Disclosure Statement.

A. Claim 1

On page 2 of the Office Action, the Examiner acknowledges that Hyde does not disclose that the alleged gas barrier member is made from one of the materials recited in claim 1. Nevertheless, the Examiner maintains that it would have been obvious to use the claimed materials, “because the selection of a known material based upon its suitability for the intended use is a design consideration within the skill in the art.”

Hyde, however, discloses that the portion 76 (i.e., alleged gas barrier member) is formed of a heat and fuel resistant “polymeric material,” such as nylon (col. 8, lines 43-46). Further, Hyde discloses that polyethylene is not desirable because it deforms at lower loads and connection strength is not as great as when using nylon (col. 8, lines 46-58). Applicant submits that Hyde’s broad disclosure of a “polymeric material,” such as nylon, and specific negative comments regarding polyethylene, fail to properly teach or suggest the specific materials recited in claim 1 (see MPEP §2144.08). Further, Applicant submits that the claimed materials are not well known in the art for use in a gas barrier member, and respectfully requests the Examiner to provide support for his assertion if the rejection is to be maintained (i.e., such that it is merely a design consideration).

B. Claims 2-4

Applicant submits that claims 2-4 are patentable at least by virtue of their dependency upon claim 1.

III. Rejections under the nonstatutory double patenting doctrine

The Examiner has rejected claims 1-4 under the judicially created nonstatutory double patenting doctrine as allegedly being claimed in U.S. Patent No. 6,733,048 (“the ‘048 Patent”) (parent Application to the present Application).

Applicant respectfully disagrees with the Examiner’s assertion. For example, claim 1 of the present invention recites that the projected portion of the flanged portion has a projecting length substantially equal to that of the annular projected portion of the outer shell. Further, claim 1 recites a cavity to be opened on a side of the outer surface of the tank. Neither of the two cited features are recited in any of claims 1-11 of the ‘048 Patent. Accordingly, Applicant submits that the current Application and the ‘048 patent do not claim the same invention. Therefore, Applicant respectfully requests the Examiner to withdraw the rejection.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the

Amendment under 37 C.F.R. § 1.111
U.S. Application No. 10/657,796

Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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Date: October 21, 2005